

**CITY OF NEWPORT BEACH  
PLANNING COMMISSION STAFF REPORT**

February 9, 2012 Meeting

Agenda Item 5

**SUBJECT:** Alternative Setback Determination - (PA2012-001)  
1702 Park Avenue  
▪ Staff Approval No. SA2012-001

**APPLICANT:** William Scott Brown

**PLANNER:** Kay Sims, Assistant Planner  
(949) 644-3237, ksims@newportbeachca.gov

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**PROJECT SUMMARY**

The applicant is requesting an alternative setback determination for property located at 1702 Park Avenue to accommodate redevelopment of the site. The applicant is requesting that the following setbacks be established:

- Front (Along Park Avenue) – 6 feet
- Sides – 3 feet
- Rear (Opposite Park Avenue) – 3 feet

**RECOMMENDATION**

- 1) Conduct a public hearing; and
- 2) Approve Alternative Setback No. SA2012-001 with the attached Alternative Setback Determination letter (Attachment No. PC 1) that would establish the following setbacks:
  - Front – 6 feet
  - Sides – 3 feet
  - Rear – 5 feet

**VICINITY MAP****GENERAL PLAN****ZONING**

LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	RT (Two-Unit Residential)	R-BI (Balboa Island)	Single-Unit Dwelling
NORTH	RT	R-BI	Single and Two-Unit Dwellings
SOUTH	RT	R-BI	Single and Two-Unit Dwellings
EAST	RT	R-BI	Single and Two-Unit Dwellings
WEST	RT	R-BI	Single and Two-Unit Dwellings

## **INTRODUCTION**

### **Project Setting**

The 1,800 square-foot property (30 feet by 60 feet) is located adjacent to the northerly side of Park Avenue near the intersection of Park and Crystal Avenues. The topography of the site is relatively flat. It is currently developed with a small, one story, single-unit dwelling, which is nonconforming because it encroaches into the required rear, westerly-side, and the front setback areas. Also, there are no parking spaces provided on the site.

### **Project Description**

Pursuant to Section 20.30.110 C (Setback Regulations and Exceptions – Alternative setback area location) of the Zoning Code, the Community Development Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties in cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity. Strict application to the subject property of the default setback regulations for an R-BI (Balboa Island) property results in a floor area limit lower than other properties in the vicinity. The Community Development Director has referred this application to the Planning Commission for review and action.

The setbacks required by the Zoning Code are 20 feet from the front property line (adjacent to Park Avenue), 3 feet on the sides, and 10 feet in the rear (opposite of Park Avenue). The resulting buildable area<sup>1</sup> of the lot is 720 square feet. The requested setbacks are 6 feet in the front along Park Avenue, 3 feet on the sides, and 3 feet in the rear (opposite of Park Avenue) resulting in a buildable area of 1,224 square feet.

### **Background**

The subject property and surrounding area (Section 5 of Balboa Island) was originally subdivided in 1912 (Attachment No. PC 4). At that time, all the lots within the subject block (Block 5) were oriented towards Crystal Avenue. Vehicular access was intended to be provided from the alley along the rear of the properties. Subsequent to the original subdivision, lots one and two within Block 5 were re-oriented to face Park Avenue, which resulted in three 30 feet by 60 feet properties. As a result of the re-orientation, two of the properties no longer have access to the alley.

Although the three reoriented lots are subject to the 20 foot front setback required by the Zoning Code, each is developed within approximately three feet of the front property

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<sup>1</sup> "Buildable area" is defined by Chapter 20.70 (Definitions) of the Zoning Code as the area of a development site, excluding the minimum front, side, and rear setback areas as applied to residential properties only.

line and are, therefore, nonconforming. Permits for the existing development on the three lots could not be located in the City's records.

## **DISCUSSION**

### **Analysis**

To determine whether the proposed setbacks are appropriate, staff analyzed: 1) the compatibility of the proposed setbacks with the required setbacks on lots within the surrounding area; and 2) the resulting true floor area ratio (maximum building square footage allowed divided by lot size) to ensure that the proposed setbacks do not result in additional floor area as compared with neighboring lots with typical lot configurations.

### *Setback Compatibility*

The front (6 feet) and side (3 feet) setbacks requested are compatible with the existing setbacks of the immediately adjacent properties, which have been developed to within approximately 3 feet of the front property line. The requested three foot rear setback is similar to a required 3 foot side setback because the rear yard of the subject property abuts the side of the neighboring property (204 Crystal). Staff recommends a five foot rear setback to provide more useable rear yard area.

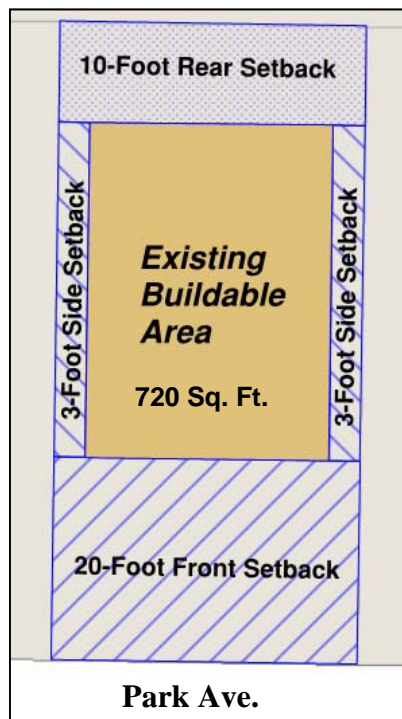


Exhibit 1, existing buildable area with required setbacks

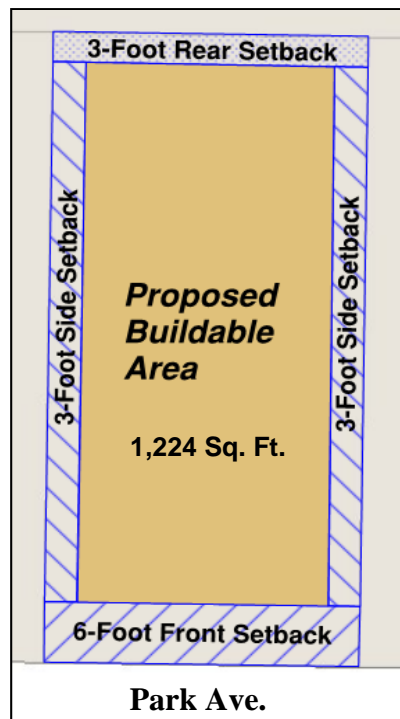


Exhibit 2, proposed setbacks and resulting buildable area

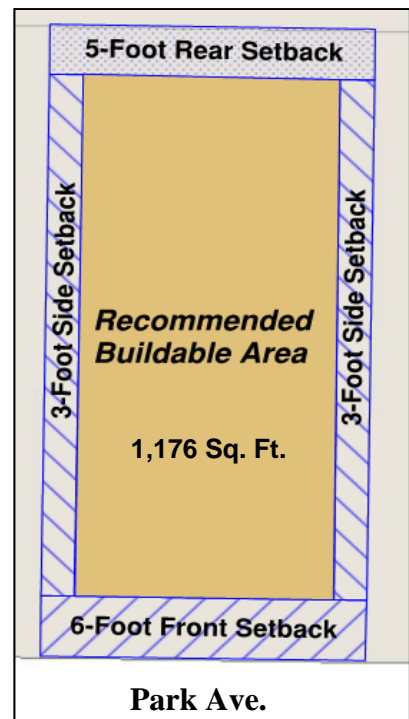


Exhibit 3, recommended setbacks and resulting buildable area

### *FAR Comparison*

Due to the difference in lot size and variation in setback areas between the subject property and surrounding lots in the area, staff has employed a true floor area ratio (FAR) method by which the total building square footage allowed on the site is divided by the total site area. This method allows for an equitable comparison of floor area to lot area.

FAR Analysis Table

Property Address	Lot Size (SF)	Buildable Area (SF)	Max Floor Area (SF)	Floor Area Ratio
1.) 1702 Park Avenue/subject property (Existing Setbacks F-10, S-3, R-10)	1,800	720	$1,080 + 200 = 1,280$	.71
(Requested Setbacks F-6, S-3, R-3)		1,224	$1,836 + 200 = 2,036$	1.13
(Recommended Setbacks F-6, S-3, R-5)		1,176	$1,764 + 200 = 1,964$	1.09
Neighboring Lots				
2.) 204 Crystal (F-8, S-3, R-5)	2,550	1,728	$2,592 + 200 = 2,792$	1.09
3.) 201 Crystal (Variance No. VA2007-004)	1,500		1,760	1.17
4.) 205 Crystal (F-6, S-3, R-5)	2,550	1,776	$2,664 + 200 = 2,864$	1.12



Because the properties immediately adjacent to the east and west of the subject property have also been reoriented and, as a result, have similarly reduced buildable areas, staff has not included those properties in this FAR analysis. Properties which are representative of the typical lot size and configuration within the surrounding area were used and are included in the FAR Analysis Table.

The typical lot size in the surrounding area is 2,550 square feet (30 feet by 85 feet). North of Park Avenue, lots facing the east side of Crystal Avenue have 8 foot front setbacks, those on the west side of Crystal have 6 foot front setbacks. The typical lot on the east side of Crystal Avenue (204 Crystal) has an FAR of 1.09. The typical lot on the west side (205 Crystal) has an FAR of 1.12. Staff also included 201 Crystal in the analysis, as representative of a reoriented property similar to the subject property, which had a reduced buildable area when the default setbacks for the RB-I (Balboa Island) were applied. A variance (VA2007-004) was approved in 2007 to allow a larger buildable area for development, that resulted in an FAR of 1.17 allowed for the property.

The setbacks requested for the subject property result in an FAR of 1.13, which is less than that approved by variance for 201 Crystal Avenue. The proposed FAR is also slightly larger than those of typical lots facing both sides of Crystal Avenue, which are 1.12 FAR (205 Crystal Avenue) and 1.09 FAR (204 Crystal Avenue). Staff recommends a rear setback of 5 feet, which would allow a 1.09 FAR that is the same as the typical lots located within the subject block (Block 5).

### *Summary*

Staff believes the requested front, side, and rear setbacks are compatible with the nearby lots. As illustrated in the FAR Analysis Table, the requested setbacks result in an FAR of 1.13, which is consistent with the FAR granted with approval of a variance for a similarly reoriented lot in the immediate area. This FAR, however, is slightly larger than typical lots within the subject block. Therefore, staff has recommended a rear setback of 5 feet, which would allow for a more usable rear yard area and would result in an FAR (1.09), that is the same as the typical lot within the subject block (Block 5).

### Alternatives

Should the Planning Commission find the alternative setbacks requested by the applicant or recommended by staff to be unreasonable, the Planning Commission should either prescribe more appropriate setbacks for the property or determine the property should be subject to the default setbacks required for residential properties within the R-BI (Balboa Island) Zoning District.

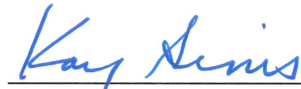
### Environmental Review

The project is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations), which consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent (%), which do not result in any changes in land use or density, including but not limited to: minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. The Alternative Setback Determination does not constitute a major change which would require environmental review.

Public Notice

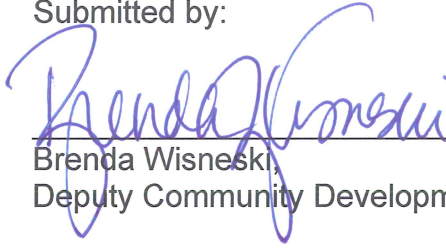
Although not required by the Municipal Code, notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property (excluding roads and waterways) and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. The item also appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:



Kay Sims,  
Assistant Planner

Submitted by:



Brenda Wisneski,  
Deputy Community Development Director

ATTACHMENTS

- PC 1 Draft Planning Commission Resolution  
Exhibit "A" Alternative Setback Determination Letter
- PC 2 Applicant's Request
- PC 3 Site Survey
- PC 4 Original Tract Map: Section 5, Balboa Island
- PC 5 Photos
- PC 6 Portions of Variance No. VA2007-004 (201 Crystal Avenue)

# **Attachment No. PC 1**

Draft Planning Commission Resolution

## **RESOLUTION NO. #####**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING SA2012-001 FOR AN ALTERNATIVE SETBACK DETERMINATION FOR THE PROPERTY LOCATED AT 1702 PARK AVENUE (PA2012-001)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by William Scott Brown, with respect to property located at 1702 Park Avenue, and legally described as Balboa Island SEC 5 LOT 1 BLK 5 WLY 30 FT ELY 60 FT AND WLY 30 FT ELY 60 FT LOT 2 BLK 5.
2. The applicant requests approval of an Alternative Setback Determination. The requested setbacks are: Front – 6 feet, Sides - 3 feet, and Rear – 3 feet (see Exhibit "A", Alternative Setback Determination Letter).
3. The subject property is located within the Balboa Island (RB-I) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-E).
5. A public hearing was held on February 9, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

#### **SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

1. The project is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations), which consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent (%), which do not result in any changes in land use or density, including but not limited to: minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. The Alternative Setback Determination does not constitute a major change which would require environmental review.
2. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial

challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

### SECTION 3. FINDINGS.

Section 20.30.110.C, Alternative Setback Area Location of the Newport Beach Municipal Code states the following:

*"In cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity, the Director may redefine the location of the front, side, and rear setback areas to be consistent with the surrounding properties,"*

Pursuant to Section 20.30.110.C, the following findings are set forth.

#### Findings:

- A. The subject property and adjacent properties have been re-subdivided and are not consistent with the orientation of the original subdivision and many lots within the surrounding area and within the subject block (Block 5, Section 5, Balboa Island).
- B. The application of the standard R-BI (Balboa Island) setbacks will result in an FAR substantially lower than other lots in the vicinity and in the R-BI Zoning District.
- C. The application of the approved alternative setbacks will allow development on the property, which will be more consistent with the scale and floor area ratio (FAR) allowed on other properties within the R-BI Zoning District and the subject block (Block 5, Section 5, Balboa Island).

### SECTION 4. DECISION.

To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **1702 Park Avenue Alternative Setbacks** including, but not limited to, the **SA2012-001 (PA2012-001)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby approves SA2012-001, as recommended by staff, subject to the setbacks set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS FEBRUARY 9, 2012.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Michael Toerge, Chairman

BY: \_\_\_\_\_  
Fred Ameri, Secretary

## **Exhibit “A”**

Draft Alternative Setback Determination Letter



COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
3300 Newport Boulevard, Building C, Newport Beach, CA 92663  
(949) 644-3200 Fax: (949) 644-3229  
[www.newportbeachca.gov](http://www.newportbeachca.gov)

## DETERMINATION OF ALTERNATIVE SETBACK AREA LOCATIONS

SA2012-001 (PA2012-0019)

**Date:** February 9, 2012

**Site address:** 1702 Park Avenue

Section 20.30.110 C (Setback Regulations and Exceptions – Alternative setback area location):

*In cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity, the [Community Development] Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties. The reorientation of setback areas is not applicable to the bluff overlay district.*

In this case the Community Development Director elected to refer this request to the Planning Commission which established the following alternative setbacks:

Yard	Setback	Description
Front	6'	Park Avenue
Side	3'	Adjacent to 200 Crystal Avenue
Side	3'	Adjacent to 1704 Park Avenue
Rear	5'	Opposite to Front (Park Avenue)

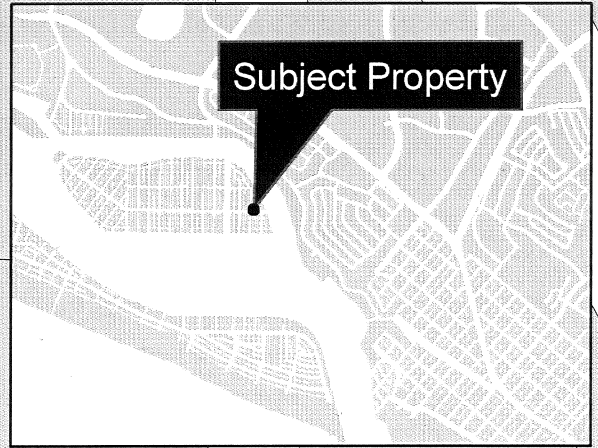
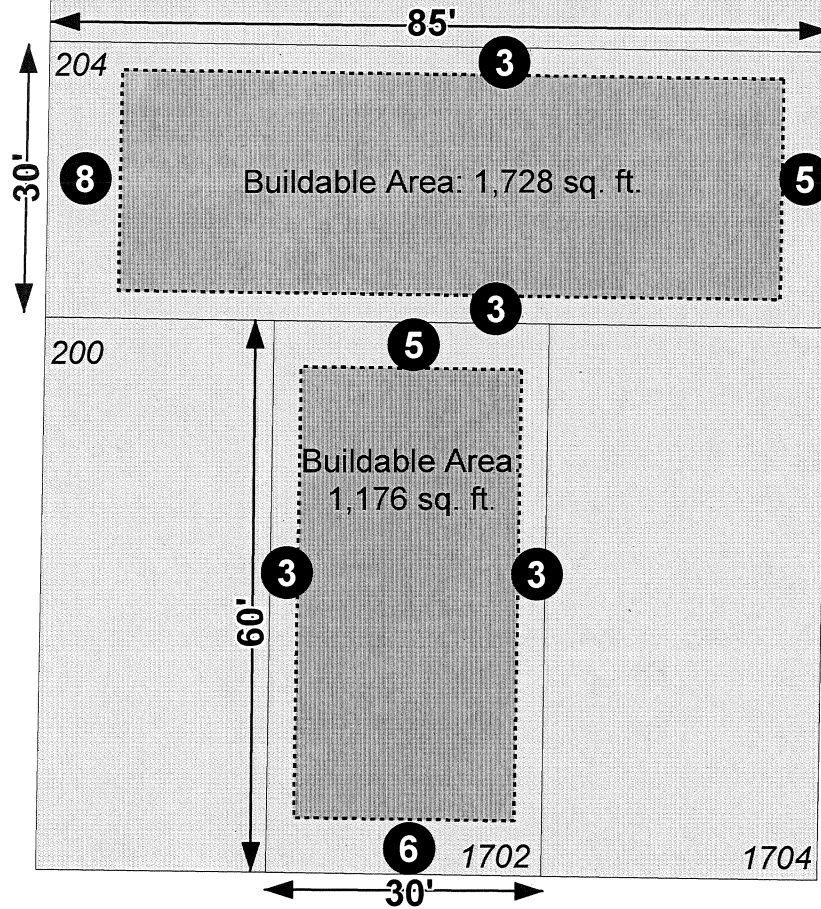
On behalf of Michael Toerge, Chairman

By: \_\_\_\_\_

Fred Ameri, Secretary

Attachment: Setback Exhibit

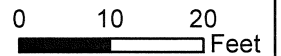
CRYSTAL AVE



PARK AVE

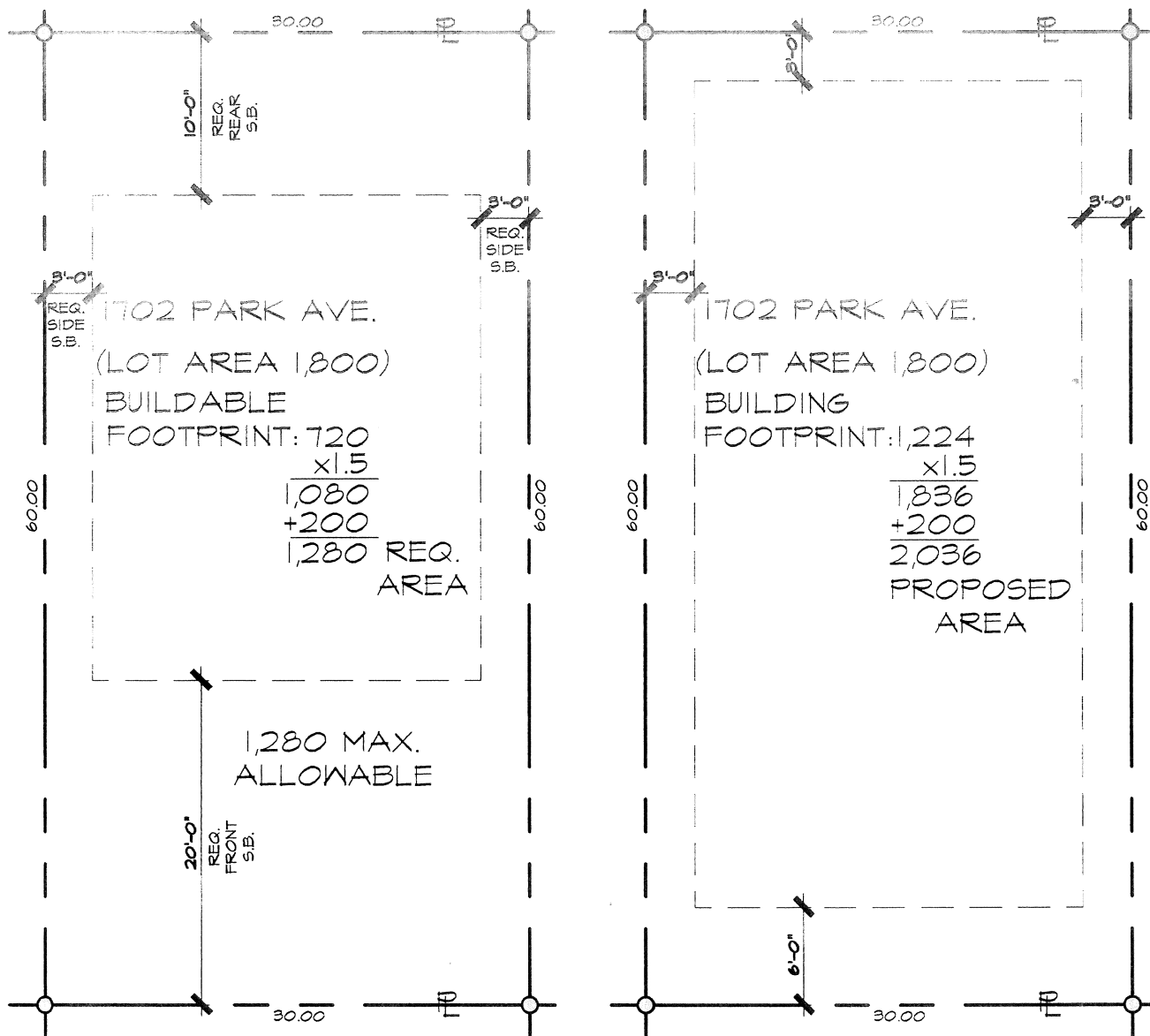


1702 Park Avenue - PA2012-001  
Determination of Alternative  
Setback Area Locations



# **Attachment No. PC 2**

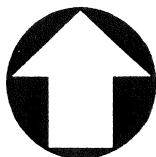
Applicant's Request



PARK AVENUE

EXISTING  
REQUIREMENTS

NORTH



PARK AVENUE

PROPOSED  
SETBACK ALTERATION

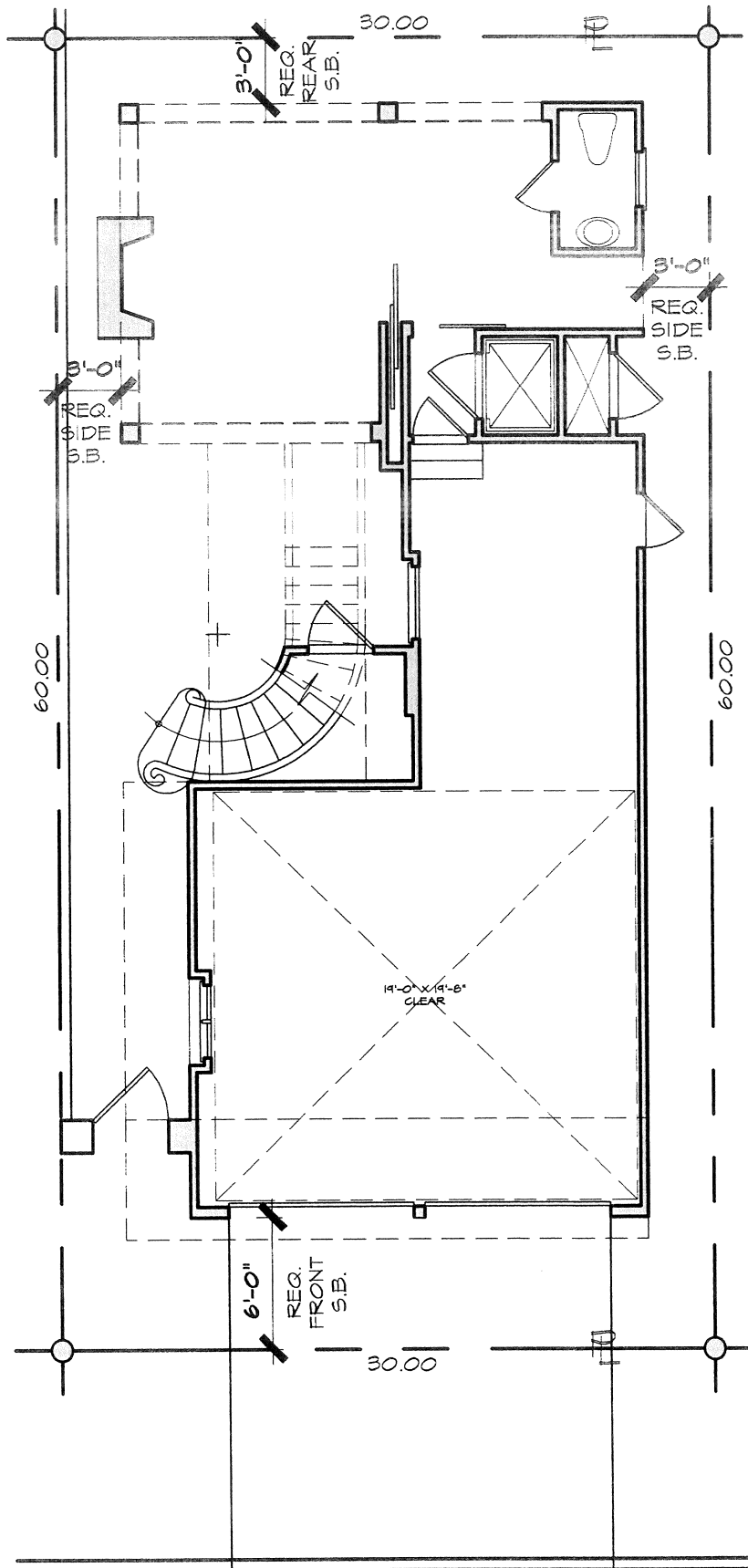
# PROPOSED NEW RESIDENCE

## SQUARE FOOTAGE:

FIRST FLOOR PLAN:	68 S.F.
SECOND FLOOR PLAN:	903 S.F.
THIRD FLOOR PLAN:	481 S.F.
TOTAL:	1,452 S.F.
GARAGE:	584 S.F.
TOTAL AREA W/GARAGE:	2,036 S.F.

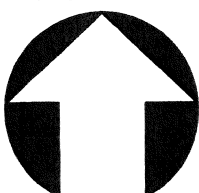
DECK 2:	124 S.F.
DECK 3:	196 S.F.

BUILDABLE LOT AREA:  $1,224 \times 1.5 = 1836$   
 $+ 200 = 2,036$  MAX. ALLOWABLE



PA2012-001 for SA2012-001  
 1702 Park Avenue  
 William Guidero

NORTH

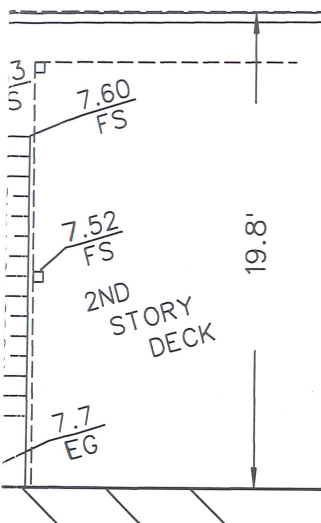


SITE and  
 FLOOR PLAN

SCALE:  $1/8" = 1'-0"$

# **Attachment No. PC 3**

Site Survey



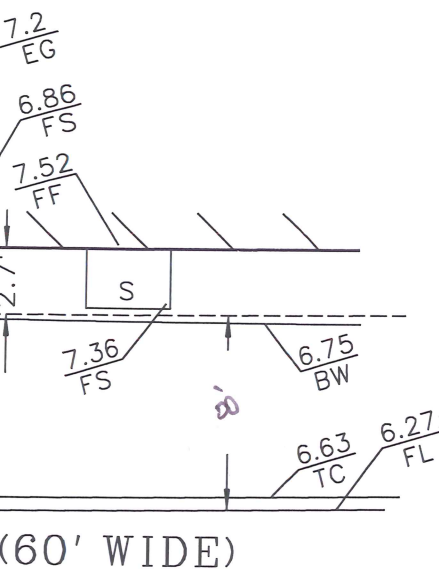
(10' WIDE)

ALLEY

# BENCH MARK:

ELEVATIONS HEREON ARE REFERENCED TO ORANGE COUNTY BENCH MARK OCS BM NB3-13-70, ELEVATION =7.735 (NAVD 88) 1992 ADJUSTMENT.

TWO STORY WOOD RESIDENCE



## LEGEND:

- FF FINISHED FLOOR
- FS FINISHED SURFACE
- EG EXISTING GRADE
- FL FLOW LINE
- TC TOP OF CURB
- TW TOP OF WALL
- CONC CONCRETE
- NPS NO PARKING SIGN
- WF WOOD FENCE
- GM GAS METER
- WH WATER HEATER
- G GATE
- BW BACK OF WALK
- S STEP
- EM ELECTRICAL METER
- P/L PROPERTY LINE



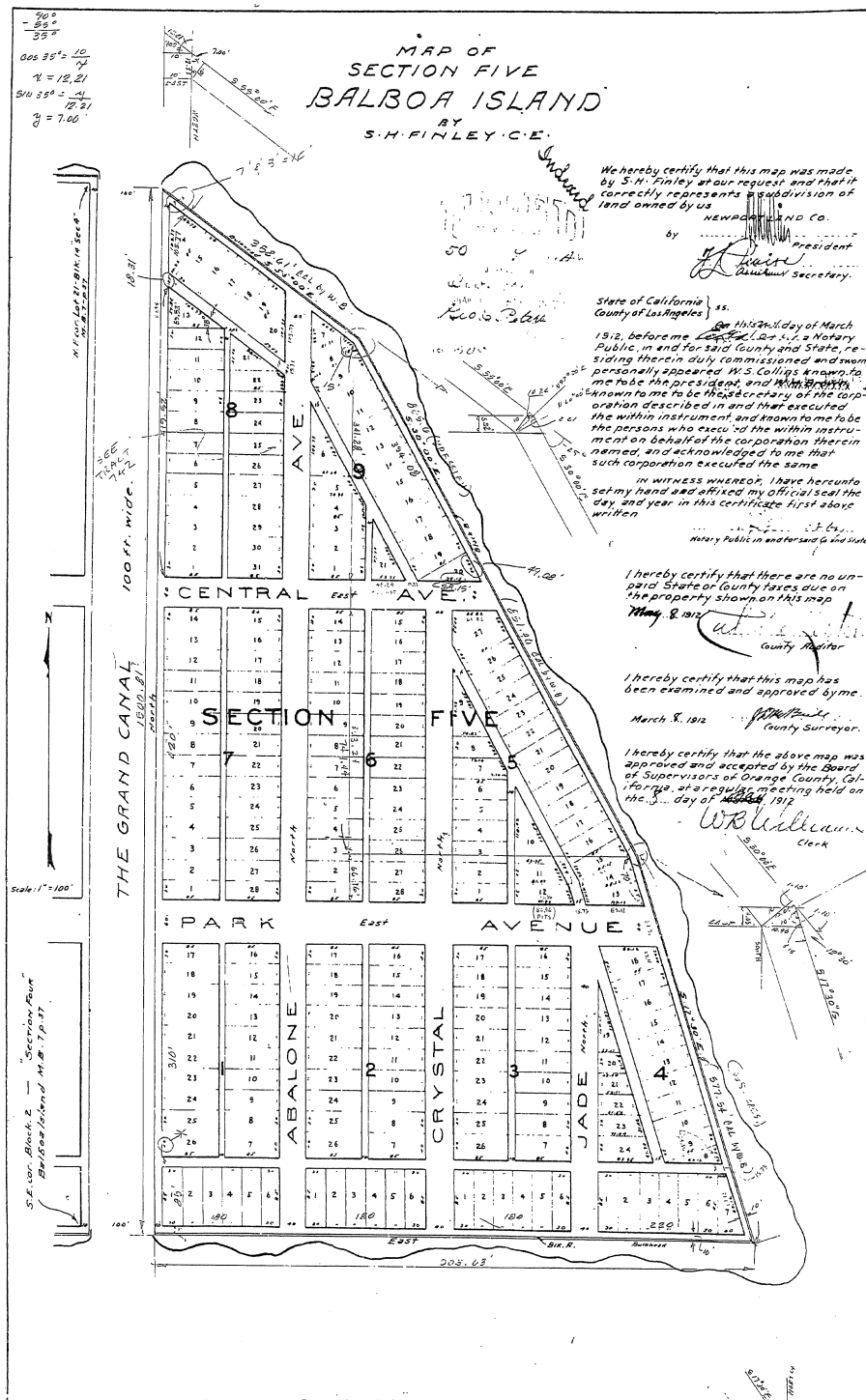
*Douglas O. Foster*  
DOUGLAS O. FOSTER P.L.S. 4599

TOPOGRAPHIC SURVEY OF THE E'LY 30 FEET OF THE W'LY 55 FEET OF LOTS 1 & 2, BLOCK 5, MAP OF SECTION FIVE, BALBOA ISLAND, NEWPORT BEACH, PER M.M. 8/9 RECORDS OF ORANGE COUNTY, CA.

SCALE: 1"=8'	ARCHITECT:	DRAWN BY: M.S.
DATE: 01-08-2012	WILLIAM BELDEN GUIDERO	REVISED:
<b>BACK BAY SURVEYING &amp; MAPPING</b> 2338 TUSTIN AVENUE NEWPORT BEACH, CA. 92660		

## **Attachment No. PC 4**

Original Tract Map:  
Section 5, Balboa Island



BALBOA I.S. SECTION FIVE  
8-9

SCALE  
1" = 80'

$$\begin{aligned}\cos Z &= 17^\circ 30'' = \frac{10}{Y} \\ Y &= 10.48 \\ \sin Z &= 17^\circ 30'' = \frac{y}{10.48} \\ y &= 3.15\end{aligned}$$

# **Attachment No. PC 5**

Photos







## **Attachment No. PC 6**

Portions of Variance No. VA2007-004  
(201 Crystal Avenue)



# CITY OF NEWPORT BEACH

## PLANNING DEPARTMENT

### NOTICE OF FINAL APPROVAL

DATE: March 6, 2008  
TO: Mr. Peter Ferrarini  
FROM: Planning Director  
SUBJECT: Variance VA2007-004 and Modification Permit MD2007-078

Please be advised that an amendment to Variance VA2007-004 and Modification Permit MD2007-078 were approved by the Planning Commission at its meeting of April 17, 2008 and became effective May 1, 2008. A copy of the approved Resolution with findings and conditions is enclosed. Any deviation from the application(s) and plans on file in the Planning Department may require an amendment to the application(s) mentioned above for the project.

Applicant: Ferrarini residence (PA2007-214)

Location: 201 Crystal Avenue

Description: A request to approve a variance to permit a new single-family dwelling to exceed the maximum permitted floor area limitation. Additionally, the request is for a modification permit to allow the encroachment of the new single-family dwelling into the required setbacks as follows: 14-feet 8-inches into the 20-foot front yard setback adjacent to Park Avenue; 1-foot into the 3-foot side yard setback for a portion of the garage on the northeast side along Crystal Ave; 7-feet into the 10-foot rear yard setback, and 4 feet into the reversed corner, 6-foot setback for the rear 20 feet of the northeasterly corner along Crystal Avenue.

Should you have any questions, please contact our office at (949) 644-3221.

Very truly yours,  
PLANNING DEPARTMENT  
David Lepo, Director

By Ginger Varin  
Ginger Varin  
Executive Secretary Planning Commission

Enclosure: ☒ Approved Resolution with Findings and Conditions of Approval

cc: Property Owner (if not applicant)

**RESOLUTION NO. 1755**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
NEWPORT BEACH APPROVING VARIANCE NO. 2007-004 AND  
MODIFICATION PERMIT NO. 2007-078 FOR PROPERTY LOCATED AT 201  
CRYSTAL AVENUE (PA 2007-214)**

**WHEREAS**, an application was filed by Brad Smith on behalf of Mr. Peter Ferrarini, property owner, with respect to property located at 201 Crystal Avenue, and legally described as the Lot 27, Block 6 E 25 ft and 25 ft Lot 28, Block 6 Track 103 in Balboa Island Section 5, requesting approval of a variance to permit a new single-family dwelling to exceed the maximum permitted floor area limitation. Additionally, the request for approval is for a modification permit to allow the encroachment of the new, single family dwelling into the required setbacks as follows: 14 feet 8 inches into the 20-foot front yard setback adjacent to Park Avenue; 1 foot into the 3-foot side yard setback for a portion of the garage on the northeast side along Crystal Ave; 7 feet into the 10-foot rear yard setback, and 4 feet into the reversed corner 6-foot setback for the rear 20 feet of the northeasterly corner along Crystal Avenue; and

**WHEREAS**, a public hearing was held on March 6, 2008 in the City Hall Council Chambers, at 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the aforesaid meeting was given. The application, plans, a staff report and evidence, both written and oral, was presented to and considered by the Planning Commission at this meeting; and

**WHEREAS**, the Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Two-Unit Residential" use. The proposed single-family residential structure is consistent with this designation; and

**WHEREAS**, the subject property is designated Two-Family Residential (RT) by the 2006 General Plan Land Use Element and zoned R1.5 (Two-Family Residential). The proposed single-family dwelling is consistent with these designations; and

**WHEREAS**, the modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reasons:

- The Zoning Code requires default setbacks for the subject property to be a minimum 20-foot front yard, 10-foot rear yard, and 3-foot side yards.
- The Zoning Code requires that the side yard on the rear 20 feet of the street side of a corner lot, where there is reversed frontage, shall not be less than the front yard required on the adjacent reversed frontage.

**WHEREAS**, Chapter 20.91 of the Newport Beach Municipal Code requires findings and facts in support of such findings for approval of a variance, which are presented as follows:

1. Finding: That there are exceptional or extraordinary circumstances applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same district.

Facts in Support of Finding: The small size and unusual orientation of the lot creates extraordinary circumstances that inhibit the maximum floor area allowed for a structure proposed on the lot that would not apply to the typical-sized and oriented lot within the block and throughout Balboa Island. The unusual orientation of the lot with the strict application of the Zoning Code required setbacks, which are unreasonably greater than on other lots in the vicinity, disproportionately reduces the buildable area of the subject site compared to lots within the block and District.

2. Finding: That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the applicant.

Facts in Support of Finding: The application of the default setbacks to the small lot results in a disproportionately reduced buildable area with a FAR of 0.57. Strict application of the Zoning Code would deprive the property of substantial rights and privileges enjoyed by other parcels within the R-1.5 District.

3. Finding: That the granting of the application is consistent with the purposes of this code and will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.

Facts in Support of Finding: The proposed single-family residence is consistent with what the development regulations permit in the immediate vicinity and throughout the neighborhoods of Balboa Island. The resulting floor area of approximately 1,560 square feet (1.04 FAR) plus 200 square feet for a gross floor area of 1,760 square feet is comparable to the FAR allowed in the vicinity and places the property in parity with the properties in the neighborhood.

4. Finding: That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not under the circumstances of the particular case be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

Facts in Support of Finding: The proposed single-family dwelling will provide the minimum required parking of two enclosed garage spaces per unit to meet the Zoning Code regulations, which is important to the improvement of the Balboa Island neighborhood where the on-street parking is limited. The height restrictions provided by the Zoning Code will not be exceeded by the proposed project. The minimum required side yard setback immediately adjacent to the existing residence to the west will be provided. Therefore, the granting of the floor area variance for the proposed

dwelling would not adversely affect the health or safety of persons residing or working in the vicinity, would not be detrimental to public welfare, and would not be injurious to property or improvements in the vicinity.

**WHEREAS**, Chapter 20.91 of the Newport Beach Municipal Code requires findings and facts in support of such findings for approval of a modification permit, which are presented as follows:

#### Findings

1. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
  - The subject property is unusually small, 1,500 square-feet, and oriented differently than nearby lots, south to north with the front adjacent to Park Avenue. Strict application of the Zoning Code requires larger setbacks that were not intended for the R-1.5 District. A typical lot on Balboa Island has front yard setbacks called out on the Districting Map ranging from 5 feet to 10 feet, depending on the block, and rear property lines adjacent to 10-foot wide alleys, which requires a minimum rear yard setback of 5 feet.
  - The subject property is a reversed corner lot within a block that the Districting Map established a 6-foot front yard setback along Crystal Avenue, which results in an additional 6-foot setback for the rear 20 feet along Crystal Avenue.
2. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reason:
  - The 5-foot 4-inch front yard is within the range of 5-foot to 10-foot front yard setbacks called out on the Districting Map for the typical lots (85 feet in depth) throughout Balboa Island.
  - The required side yard setback along Crystal Avenue is 3 feet. The proposed corner of the garage will encroach 1 foot into the 3-foot setback and is necessary to create the minimum required interior two-car garage parking spaces of 17 feet 6 inches by 19 feet.
  - The proposed garage will encroach 4 feet into the 6-foot reversed corner setback. As with the encroachment into the required sideyard setback, this encroachment is necessary to create the minimum required garage space. The second floor will stepback to provide 5 feet 3 inches to the property line leaving only a 9-inch encroachment, which is necessary to maintain useable floor area on the second floor.
  - The proposed rear yard setback is 3 feet. The rear yard encroachment consists of the garage on the first floor and a bedroom on the second floor. The first floor garage encroachment is necessary to create the minimum required two car garage parking spaces. The second floor 3-foot rear yard setback is intended to match the standard

3-foot side yard setback on the abutting property, thus providing the same amount of air, light, and separation as would exist with two 3-foot side yard setbacks.

3. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
  - The requested encroachments will provide the applicant the ability to construct a single-family dwelling that consists of the minimum two-car garage parking spaces required by the Zoning Code, which is important to the immediate vicinity and all of Balboa Island where the on-street parking is limited.
  - The granting of the application will enable the proposed single family dwelling to create articulation and setbacks on the first and second floor to meet the Residential Design Criteria.
  - All site distance requirements will be met for the Public Works Department.

**WHEREAS**, this project has been reviewed and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures) and Class 5( Minor Alterations to Land Use Limitations); and

**NOW THEREFORE, BE IT RESOLVED:**

**Section 1.** The Planning Commission of the City of Newport Beach hereby approves Variance No. 2007-004 and Modification Permit No. 2007-078 subject to the Conditions set forth in Exhibit "A".

**Section 2.** This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 6th DAY OF MARCH 2008.

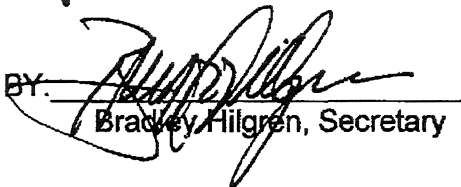
AYES: Eaton, Peotter, Hawkins, Cole,  
McDaniel, Toerge and Hillgren

NOES: \_\_\_\_\_ None \_\_\_\_\_

BY: \_\_\_\_\_

  
Robert Hawkins, Chairman

BY: \_\_\_\_\_

  
Bradley Hillgren, Secretary

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**  
(Project-specific conditions are in italics)

**PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. *Prior to issuance of building permits, approval from the California Coastal Commission shall be required.*
3. *The interior garage with dimensions of 17 feet 6 inches wide by 19 feet deep shall remain free of all obstructions and remain available for the parking of vehicles at all times.*
4. All height restrictions for the R-1.5 District shall be met, including maximum height permissible 24 feet for midpoint/flat roof/deckrails.
5. *The total square footage of the approved structure, including the 200 square-foot credit permitted by the Zoning Code for enclosed parking spaces for the R-1.5 District, shall not exceed 1,760 square feet.*
6. *The new single-family structure shall maintain the following minimum setbacks: 5 feet 4 inches to the front property line adjacent to Park Avenue; 3 feet to the westerly side property line; 2 feet on the first floor and 5 feet 3 inches on the second floor to the reversed corner northeasterly property line along Crystal Ave; 2 feet for the southerly most corner of the garage to the easterly side property line along Crystal Avenue; 3 feet to 5 feet to the easterly side property line along Crystal Avenue; and 3 feet to the rear property line.*
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. *Prior to the issuance of building permits, the applicant shall work with the Planning Department to obtain and record a Certificate of Compliance or Lot Line Adjustment to legally recognize the portions of parcels at 201 Crystal Avenue as one parcel for a single development.*
9. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
10. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagmen. Traffic

control and transportation of equipment and materials shall be conducted in accordance with state and local requirements.

11. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.

**Building Department Conditions**

12. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
13. Project foundation and slab design shall mitigate liquefaction.
14. The top of slab elevation shall be at 8.67 NAVD minimum due to special flood hazard zone.
15. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

**Public Works Conditions**

16. The design or the development shall not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
17. All improvements shall be constructed as required by Ordinance and the Public Works Department.
18. All other utility service connections serving this development shall be made underground. The existing water service line is above ground in the Public right-of-way.
19. All improvements shall comply with the City's sight distance requirement (intersections and driveways). See City Standard 110-L.
20. All proposed/existing private non-standard improvements within the public-right-of-way requires an Encroachment Permit, if applicable.
21. All on-site drainage shall comply with the latest City Water Quality requirements.
22. Driveway approach bottom shall not exceed 20 feet wide for a two-car garage.



APPROVED BY:

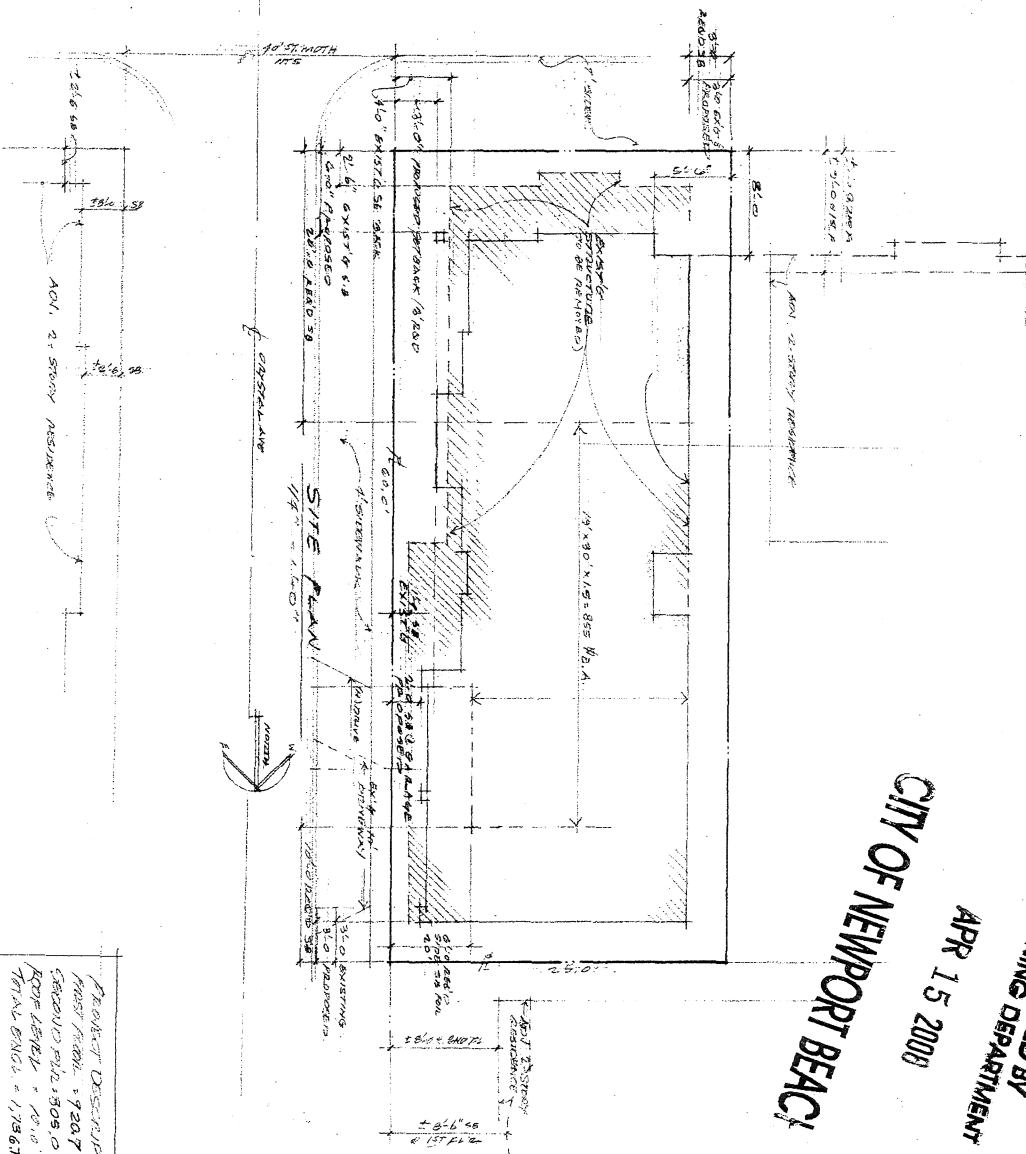
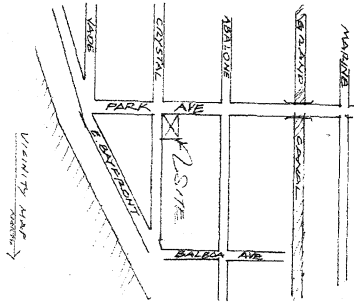
*Melinda Williams*

Planning Commission City Council

As Submitted As Modified

Refer to: Resolution Approval Letter

# of Pgs Approved: 3 Date: 4/17/08



CITY OF NEWPORT BEACH

APR 15 2008

RECEIVED BY  
PLANNING DEPARTMENT

A NEW RESIDENCE FOR:

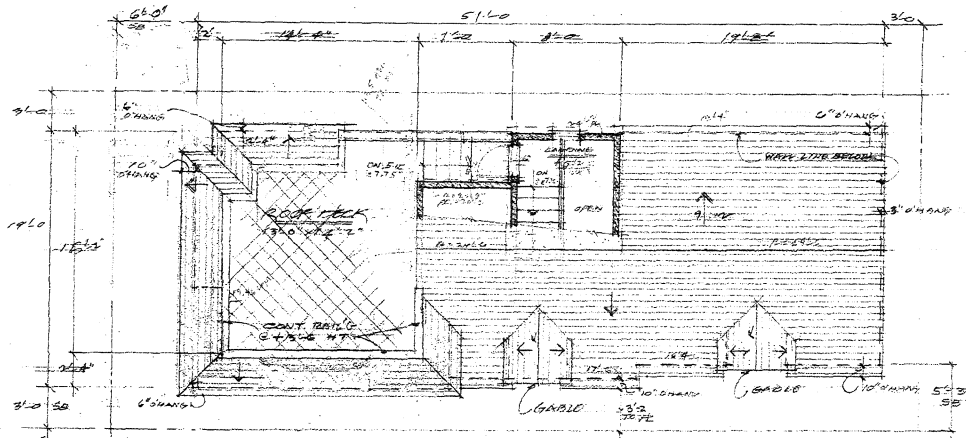
MR. & MRS. FERRADINI  
JOB ADDRESS:  
201 CRYSTAL AVENUE

SITE PLAN

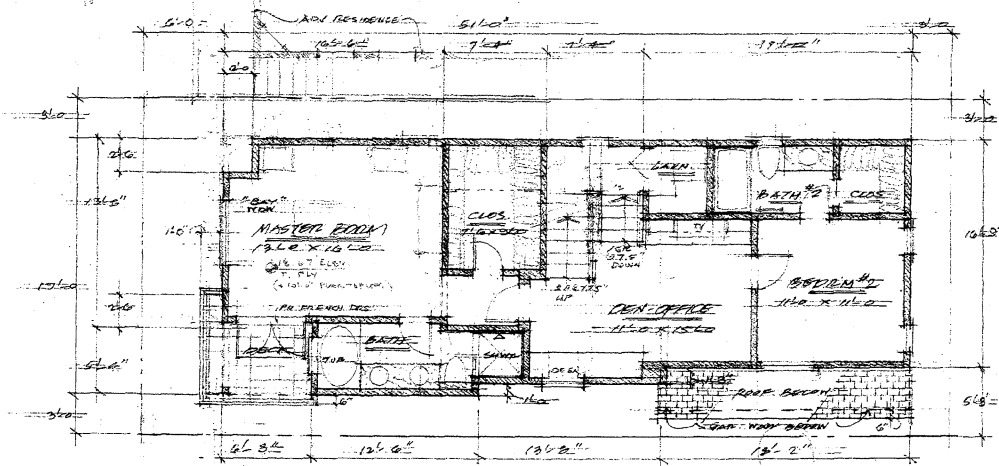
BRADFORD C. SMITH, ARCHITECT  
(949) 631-3682 FAX: (949) 631-3685  
365 B OLD NEWPORT BLVD.  
NEWPORT BEACH, CALIFORNIA

PROJECT DESCRIPTION:  
New 2-story residence.  
Approx. 1,750 sq. ft.  
Total cost: \$1,750,000.

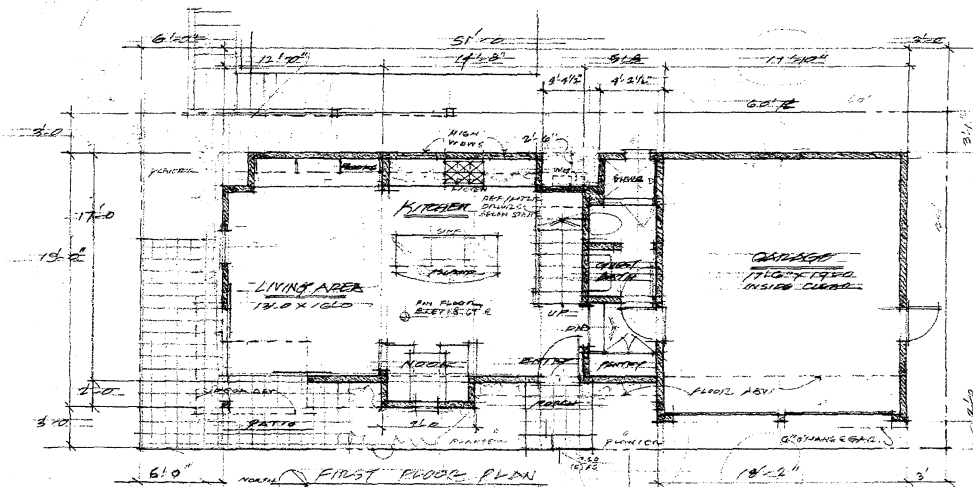
1



DECK / ROOF LEVEL  
10' x 10' DECK SPACE  
10' x 10' PATIO SPACE  
10' x 10' GARAGE SPACE



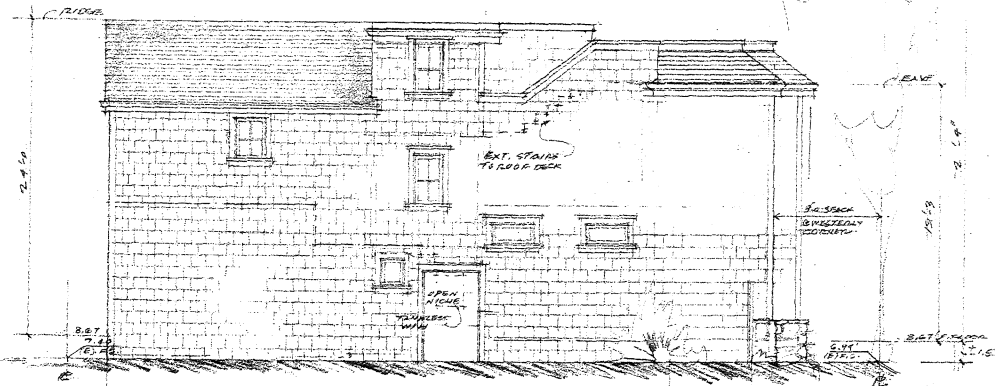
SECOND FLOOR PLAN  
5050 SQ. FT. LIVING / COND. SPACE  
56 SQ. FT. DECK SPACE



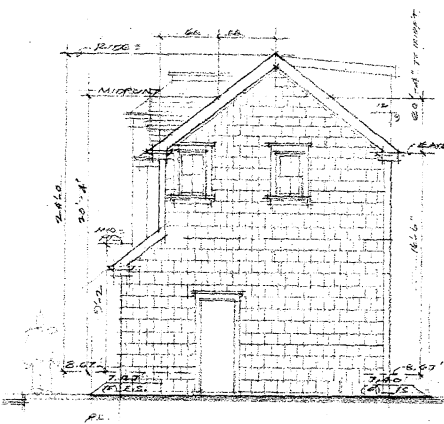
FIRST FLOOR PLAN  
5591 SQ. FT. LIVING / COND. SPACE  
3016 SQ. FT. GARAGE  
9207 SQ. FT. TOTAL



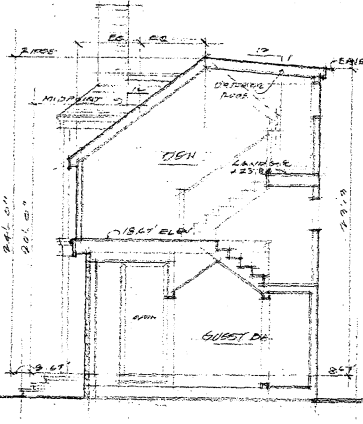
0.29' MAXIMUM ALTIMETER



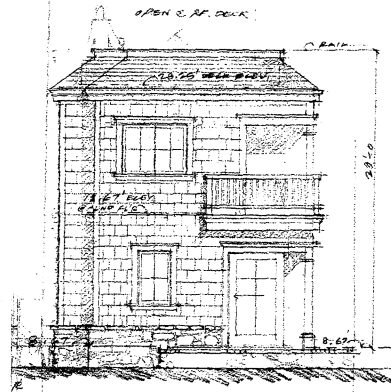
REAR - WEST ELEVATION



RIGHT SIDE ELEVATION



SECTION



LEFT SIDE - PARK AVE ELEV.



FRONT - CRYSTAL AVE ELEVATION



PAGE

3

OF

3

3	A NEW HOME FOR: <b>MIL &amp; MRS. FERRARINI</b> OWNER ADDRESS: <b>201 CRYSTAL AVENUE</b>	<b>EXTERIORS</b>	<b>BRADFORD C. SMITH, ARCHITECT</b> (949) 631-3682 FAX: (949) 631-3685 365 B OLD NEWPORT BLVD. NEWPORT BEACH, CALIFORNIA	
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**CITY OF NEWPORT BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
3300 NEWPORT BOULEVARD, BLDG. C  
NEWPORT BEACH, CA 92658-8915  
(949) 644- 3237**

## Memorandum

**To:** Planning Commission  
**From:** Kay Sims, Assistant Planner  
**Date:** February 7, 2012  
**Re:** PC Agenda Item #5  
1702 Park Avenue, Alternative Setback Determination (PA2012-001)

We would like to provide the following clarifications/corrections to the staff report for this project:

1. The FAR Analysis Table on page 5 (handwritten page 9) should state that the "Existing" (required) front setback for 1702 Park Avenue is 20 feet (see table below). The buildable area of the property is correct (720 square feet).

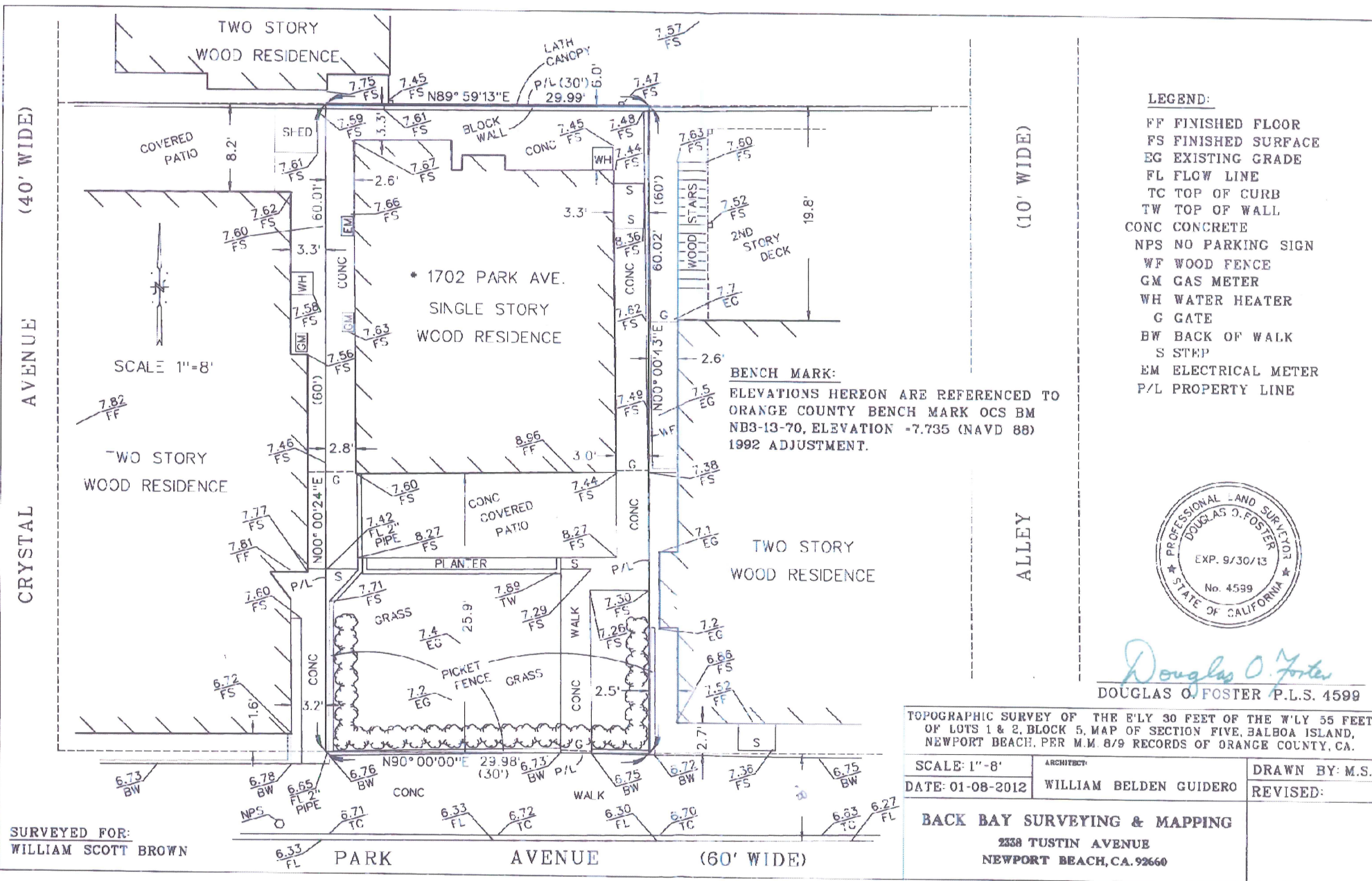
FAR Analysis Table

Property Address	Lot Size (SF)	Buildable Area (SF)	Max Floor Area (SF)	Floor Area Ratio
1.) 1702 Park Avenue/subject property (Existing Setbacks F- <del>1020</del> , S-3, R-10)	1,800	720	1,080 + 200 = 1,280	.71
(Requested Setbacks F-6, S-3, R-3)		1,224	1,836 + 200 = 2,036	1.13
(Recommended Setbacks F-6, S-3, R-5)		1,176	1,764 + 200 = 1,964	1.09
Neighboring Lots				
2.) 204 Crystal (F-8, S-3, R-5)	2,550	1,728	2,592 + 200 = 2,792	1.09
3.) 201 Crystal (Variance No. VA2007-004)	1,500		1,760	1.17
4.) 205 Crystal (F-6, S-3, R-5)	2,550	1,776	2,664 + 200 = 2,864	1.12

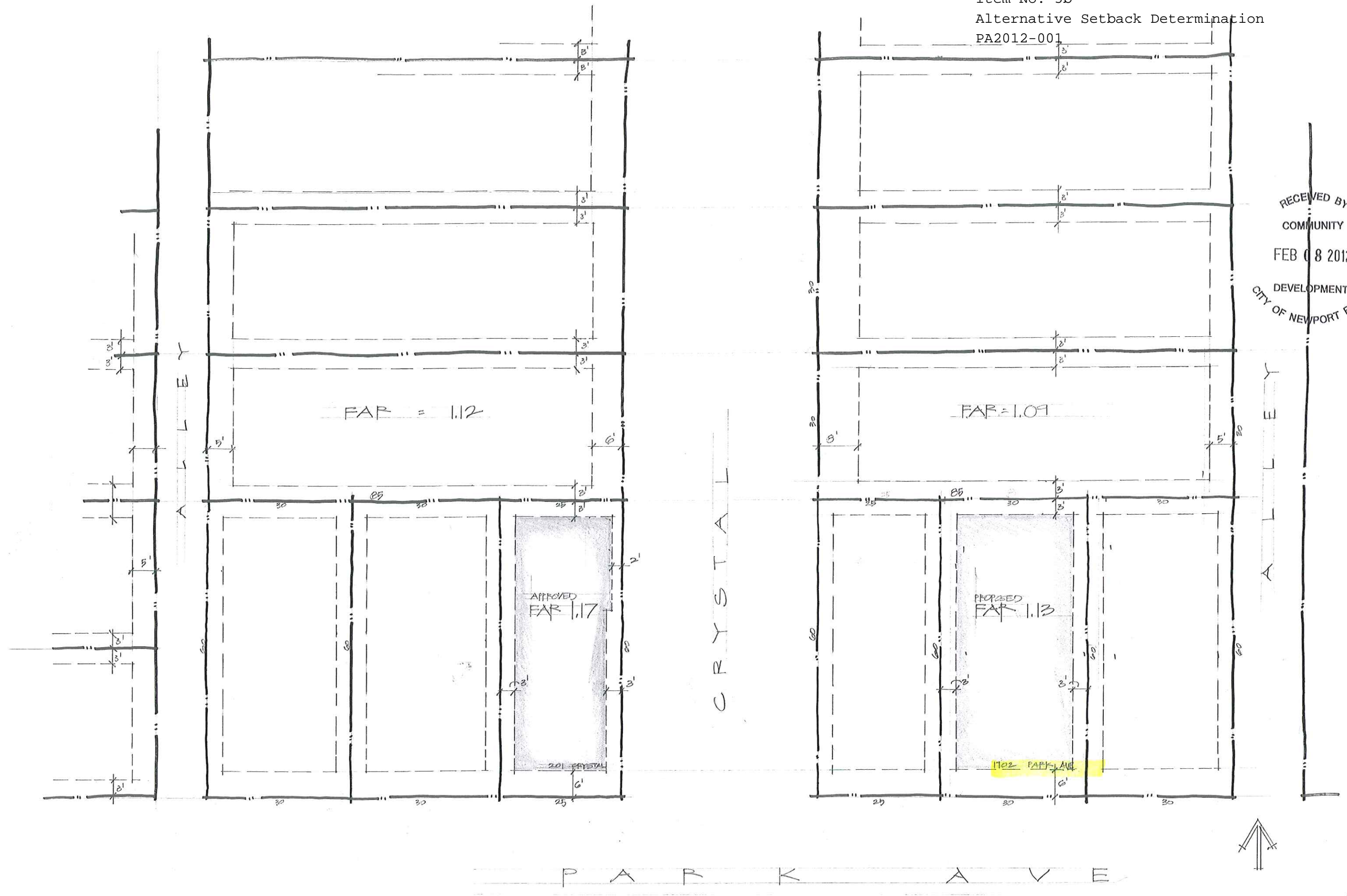
2. Attachment PC 3 (Site Survey) was not printed properly and is attached. As shown on the site survey, current development on the property encroaches approximately 2 feet into the front 20 foot setback, 2.4 inches into the westerly side setback, and 6 feet 8 inches into the rear setback. The easterly side setback is 3 feet and is consistent with the 3 foot side setback for the RB-I (Balboa Island) Zoning District.

CRYSTAL AVENUE (40' WIDE)

ALLEY (10' WIDE)



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CITY OF NEWPORT BEACH



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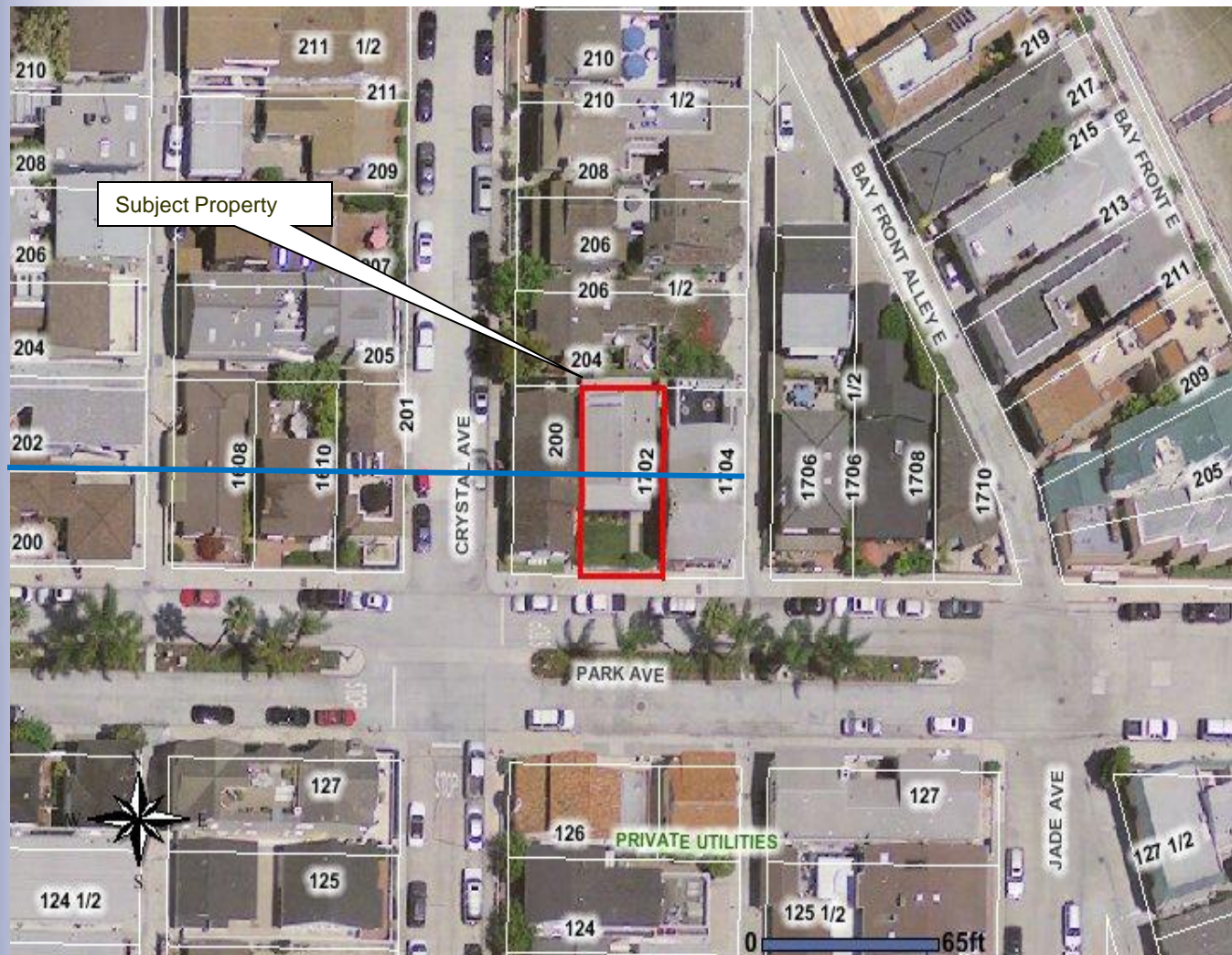


Planning Commission Meeting

February 9, 2012

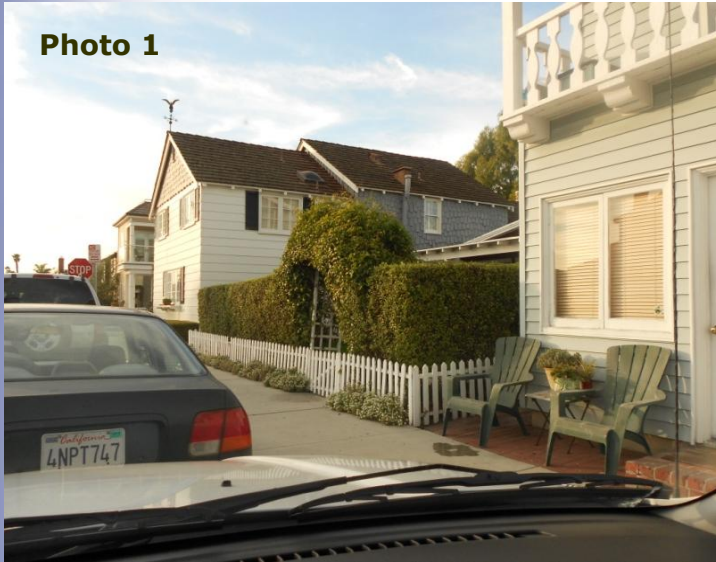
## **1702 Park Avenue Alternative Setback Determination**

# Vicinity Map



# Site Photos

**Photo 1**



**Photo 2**



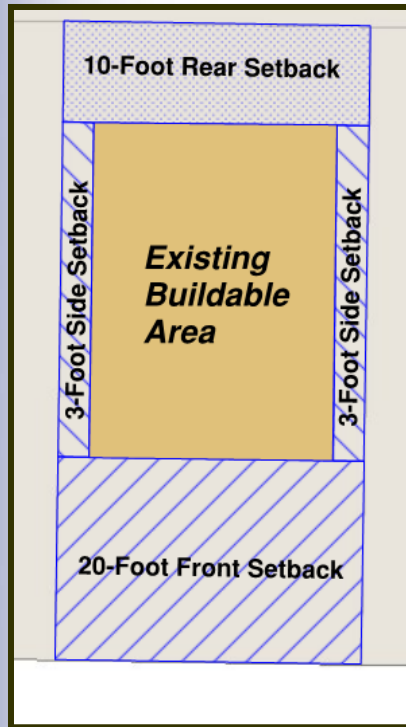
**Photo 3**



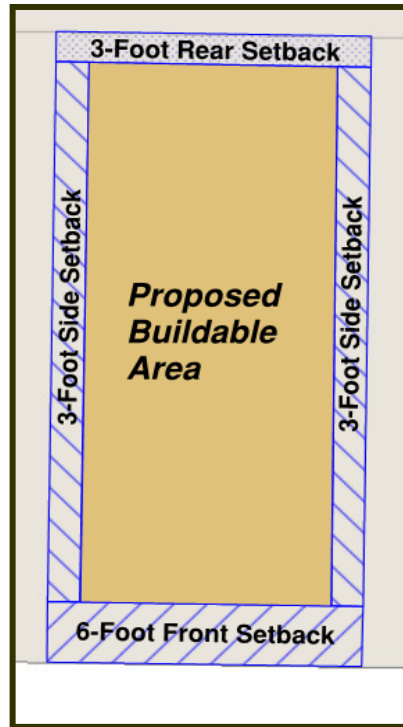
**Photo 4**



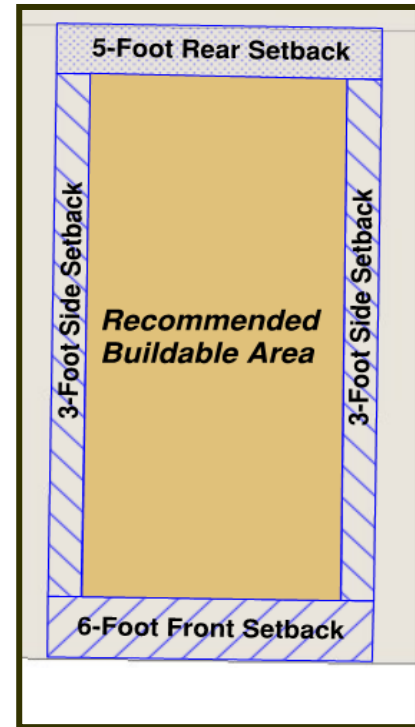
# Setbacks



Required Setbacks



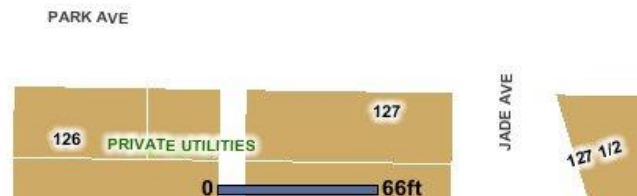
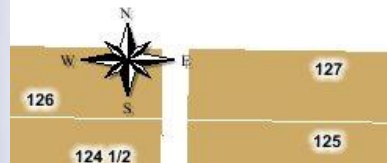
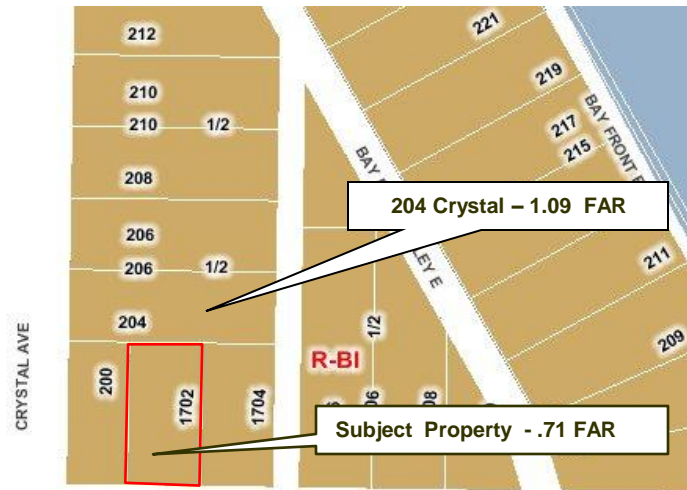
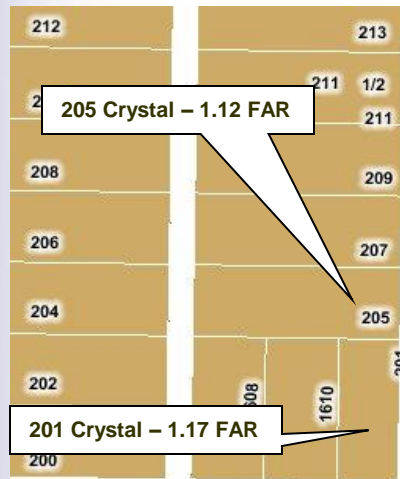
Proposed Setbacks



Recommended Setbacks

# FAR Comparison

Property Address	Lot Size (SF)	Buildable Area (SF)	Max Floor Area (SF)	Floor Area Ratio
1.) 1702 Park Avenue/subject property (Required Setbacks F-20, S-3, R-10)	1,800	720	1,080 + 200 = 1,280	.71
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Neighboring Lots				
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3.) 201 Crystal (Variance No. VA2007-004)	1,500		1,760	1.17
4.) 205 Crystal (F-6, S-3, R-5)	2,550	1,776	2,664 + 200 = 2,864	1.12



# Recommendation

Approve Alternative Setback No. SA2012-001 as recommended by staff with the Alternative Setback Determination letter attached to the staff report (Attachment No. PC 1) that would establish the following setbacks:

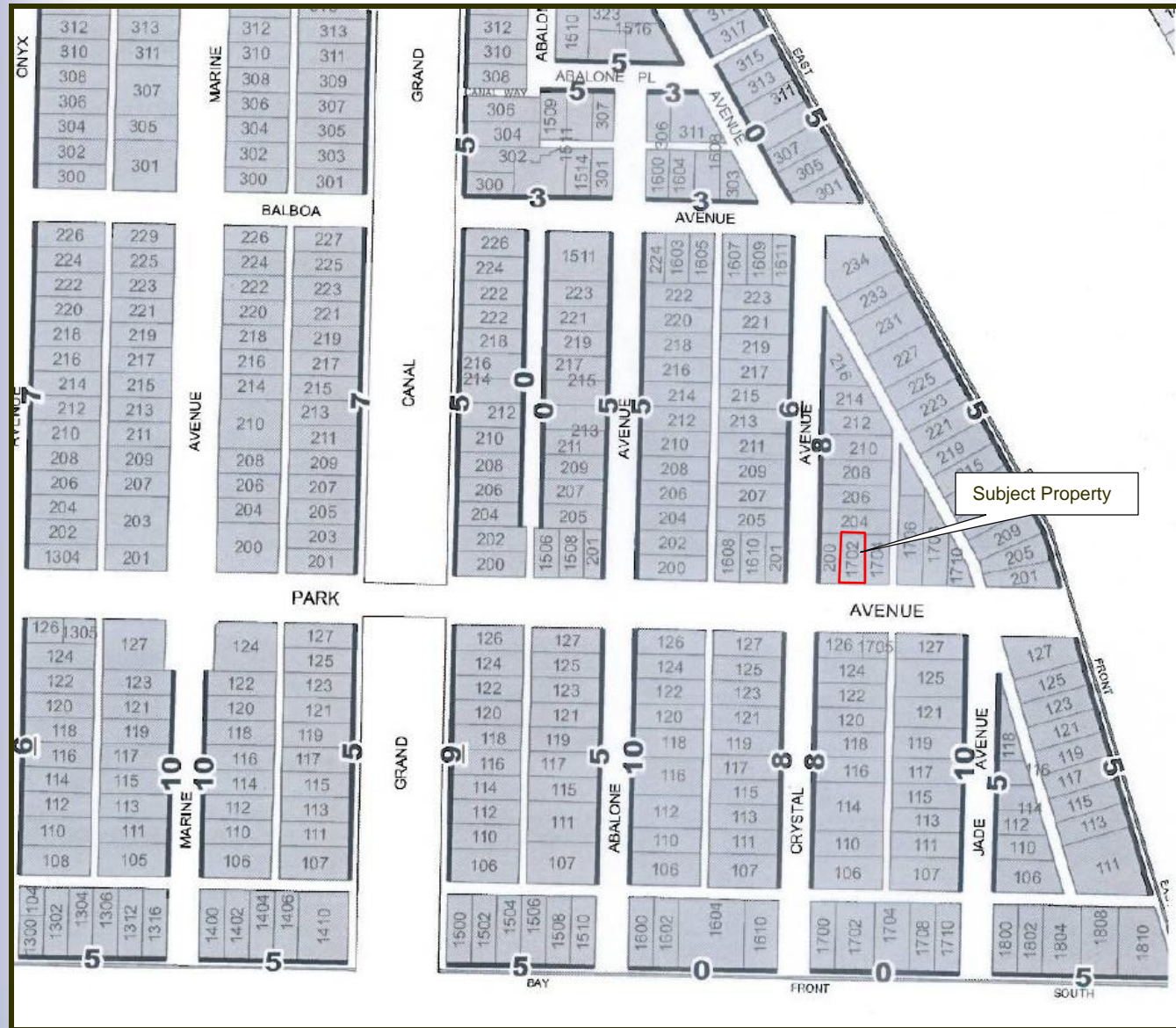
Front – 6 feet

Sides – 3 feet

Rear – 5 feet



# Portion of Setback Map S-4



# Site Survey

